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FILED

MAY 24 2001

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12 UNITED STATES OF AMERICA,)	Case No. CR-00-0230-MIIP
13 Plaintiff,)	
14 v.)	PLEA AGREEMENT
15 R.B. JONES,)	
16 Defendant.)	

17
18 I, R.B. Jones, and the United States Attorney's Office for the Northern District of
19 California (hereafter "the government") enter into this written plea agreement (the "Agreement")
20 pursuant to Rule 11(e)(1)(B) of the Federal Rules of Criminal Procedure:

21 The Defendant's Promises

22 1(a). I agree to plead guilty to count one of the captioned superseding indictment
23 charging me with bribery, in violation of 18 U.S.C. § 666(a)(1)(B). I agree that the elements of
24 the offense are as follows: (1) I was an agent of a local government that received, in a one year
25 period, benefits in excess of \$10,000 from the federal government; (2) I corruptly solicited or
26 demanded, or accepted or agreed to accept, something of value from another person, intending to
27 be influenced in connection with any business or transaction of the local government; and (3) the
28 business or transaction in question involved something of value in excess of \$5,000. I agree that

1 the maximum penalties for each count are as follows:

- | | | | |
|---|----|---------------------------------|----------------------------|
| 2 | a. | Maximum prison sentence | 10 years |
| 3 | b. | Maximum fine | \$250,000 |
| 4 | c. | Maximum supervised release term | 3 years |
| 5 | d. | Mandatory special assessment | \$100 |
| 6 | e. | Restitution | as determined by the Court |

7 1(b). I agree to plead guilty to count seven of the captioned superseding indictment
8 charging me with fraud and false statements, in violation of 26 U.S.C. § 7206(1). I agree that the
9 elements of the offense are as follows: (1) I made and signed a tax return for the year 1999 that I
10 knew contained false information as to a material matter; (2) the return contained a written
11 declaration that it was being signed subject to the penalties of perjury; and (3) in filing the false
12 tax return, I acted willfully. I agree that the maximum penalties for this count are as follows:

- | | | | |
|----|----|---------------------------------|----------------------------|
| 13 | a. | Maximum prison sentence | 3 years |
| 14 | b. | Maximum fine | \$100,000 |
| 15 | c. | Maximum supervised release term | 3 years |
| 16 | d. | Mandatory special assessment | \$100 |
| 17 | e. | Costs of prosecution | as determined by the Court |

18 1(c). I agree to plead guilty to count nine of the captioned superseding indictment
19 charging me with mail fraud, in violation of 18 U.S.C. §§ 1341 and 1346. I agree that the
20 elements of the offense are as follows: (1) I made up a scheme to deprive the City of East Palo
21 Alto of its right to my honest services; (2) I acted with the intent to deprive the City of East Palo
22 Alto of its right to my honest services; and (3) I caused someone to use the United States mail to
23 carry out the scheme. I agree that the maximum penalties for this count are as follows:

- | | | | |
|----|----|---------------------------------|----------------------------|
| 24 | a. | Maximum prison sentence | 5 years |
| 25 | b. | Maximum fine | \$250,000 |
| 26 | c. | Maximum supervised release term | 3 years |
| 27 | d. | Mandatory special assessment | \$100 |
| 28 | e. | Restitution | as determined by the Court |

1 2. I agree that I am guilty of the offense to which I will plead guilty, and I agree that
2 the following facts are true:

3 a. From January 1993 through May 2000, I was a member of the East Palo Alto,
4 California city council. From approximately December 1995 through December 1999, I was the
5 mayor of East Palo Alto, California.

6 b. East Palo Alto, California, is a local government entity. In each of the years
7 1998 and 1999, East Palo Alto received more than \$10,000 from the federal government through
8 a variety of federal programs.

9 c. On December 1, 1999, I accepted \$5,000 from an employee of the California
10 Water Services Company in exchange for my promise to assist that company in my capacity as
11 mayor and city councilmember to obtain a contract to provide water services to the city of East
12 Palo Alto. At the time, I informed the employee that the company would be required to pay me
13 an additional \$3,000 after the city council voted on the water services contract.

14 d. On approximately April 11, 2000, I filed my federal income tax return for the
15 year 1999 using an IRS Form 1040. Although I knew that I received \$5,000 from an employee of
16 the California Water Services Company on December 1, 1999, I did not report this income on my
17 tax return. In signing the tax return I falsely declared that the return was "true, correct, and
18 complete," when in truth I knew it was not because it did not report the \$5,000 payment as
19 income.

20 e. In August 1998 I devised a scheme to defraud the City of East Palo Alto by
21 receiving money that was paid to a subcontractor employed on the Gateway 101 construction
22 project funded by the East Palo Alto Redevelopment Agency. At the time, I was the vice-
23 chairperson of the Redevelopment Agency. In September 1998, as part of the scheme, the
24 subcontractor was hired by the Gateway 101 project manager on my recommendation to design
25 the project manager's construction trailer. The subcontractor performed the work and was paid
26 by funds from the East Palo Alto Redevelopment Agency. As part of my scheme, I caused the
27 subcontractor to pay 50% of his earnings (\$1,742.97) to my niece. In turn, I caused my niece to
28 pay that money to me. My niece mailed a check in the amount of \$1,400 from Louisville,

1 Kentucky to me in East Palo Alto, California. My niece gave me the balance, approximately
2 \$300 in cash, during a later visit. I did not do any work as a contractor or a subcontractor on the
3 Gateway 101 construction project and I was not entitled to the money that was paid to me.

4 3. I agree to give up all rights that I would have if I chose to proceed to trial,
5 including the rights to a jury trial with the assistance of an attorney; to confront and cross-
6 examine government witnesses; to remain silent or testify; to move to suppress evidence or raise
7 any other Fourth or Fifth Amendment claims; to any further discovery from the government, as
8 may be limited by United States v. Ruiz, 241 F.3d 1157 (9th Cir. 2001); and to pursue any
9 affirmative defenses and present evidence.

10 4. I agree to give up my right to appeal my conviction, the judgment, and orders of
11 the Court. I also agree to waive any right I may have to appeal my sentence.

12 5. I agree not to file any collateral attack on my conviction or sentence, including a
13 petition under 28 U.S.C. § 2255, at any time in the future after I am sentenced, except for a claim
14 that my constitutional right to the effective assistance of counsel was violated.

15 6. I agree not to ask the Court to withdraw my guilty pleas at any time after they are
16 entered.

17 7. I agree that the Sentencing Guidelines should be calculated as follows, and that I
18 will not ask for any other adjustments to or reductions of the offense level or for any downward
19 departures of any kind:

20	a. Base Offense Level, USSG §2C1.1(a):	10
21	b. Specific Offense Characteristic, 22 More Than One Bribe, USSG §2C1.1(b)(1):	+2
23	c. Specific Offense Characteristic, 24 Payment for the Purpose of Influencing an Elected Official, USSG §2C1.1(b)(2)(B):	+8
25	d. Acceptance of responsibility, USSG §3E1.1 (if I meet the requirements of this section):	-3
26	e. Adjusted Offense Level:	17
27	f. Sentencing Guideline Range:	24-30 months

1 I agree that, regardless of any other provision in this agreement, the government may and
2 will provide to the Court and the Probation Office all information relevant to the offenses
3 charged in the superseding indictment and/or the sentencing decision. I also agree that the Court
4 is not bound by the Sentencing Guidelines calculations set forth in this paragraph, the Court may
5 conclude that a higher guideline range applies to me, and, if it does, I will not be entitled, nor will
6 I ask, to withdraw my guilty plea.

7 8. In return for the government's promises set out below, I agree to pay restitution in
8 the amount of \$6,742.97. Specifically, I agree that I will pay restitution (a) to the Federal Bureau
9 of Investigation stemming from my improper acceptance of \$5,000 from the California Water
10 Services Company and (b) to the City of East Palo Alto stemming from my improper acceptance
11 of \$1,742.97 from the subcontractor employed on the Gateway 101 project. I agree that, before
12 and after sentencing, I will, upon request of the Court, the government, or the U.S. Probation
13 Office, provide accurate and complete financial information, release funds and property under my
14 control, submit sworn statements and give depositions under oath concerning my assets and my
15 ability to pay, surrender assets I obtained as a result of my crimes, and make a good faith effort to
16 pay amounts I am ordered to pay as a fine, forfeiture, or restitution. I agree that on the day I am
17 sentenced I will pay the mandatory \$300 special assessment to the Clerk of Court.

18 9. I agree not to commit or attempt to commit any crimes before sentence is imposed
19 or before I surrender to serve my sentence. I agree to ^{voluntarily} surrender to serve any sentence of
20 imprisonment ordered by the Court ~~on the day that I am sentenced~~ ^{JH Mader RBJ.}. I also agree not to violate the
21 terms of my pretrial release; intentionally provide false information to the Court, the Probation
22 Office, Pretrial Services, or the government; or fail to comply with any of the other promises I
23 have made in this Agreement. I agree that, if I fail to comply with any promises I have made in
24 this Agreement, then the government will be released from all of its promises below, but I will
25 not be released from my guilty plea.

26 10. I agree that this Agreement contains all of the promises and agreements between
27 the government and me, and I will not claim otherwise in the future.
28

1 11. I agree that this Agreement binds the U.S. Attorney's Office for the Northern
2 District of California only, and does not bind any other federal, state, or local agency.

3 The Government's Promises

4 12. The government agrees to move to dismiss any open charges pending against the
5 defendant in the captioned indictment at the time of sentencing.

6 13. The government agrees not to file or seek any additional charges that could be
7 filed as a result of the investigation that led to the captioned superseding information.

8 14. The government agrees to recommend the Sentencing Guidelines calculations set
9 out in paragraph 7 above. The government further agrees to recommend that defendant be
10 ordered to pay a fine of no more than \$5,000 and restitution as set forth in paragraph 8 above.
11 The government reserves its right to argue that the defendant should be sentenced to a term of
12 imprisonment at the high-end of the applicable Sentencing Guideline range.

13 The Defendant's Affirmations

14 15. I confirm that I have had adequate time to discuss this case, the evidence, and this
15 Agreement with my attorney, Harold Rosenthal, and that he has provided me with all the legal
16 advice that I requested.

17 16. I confirm that while I considered signing this Agreement, and at the time I signed
18 it, I was not under the influence of any alcohol, drug, or medicine.

1 17. I confirm that my decision to enter guilty pleas is made knowing the charges that
2 have been brought against me, any possible defenses, and the benefits and possible detriments of
3 proceeding to trial. I also confirm that my decision to plead guilty is made voluntarily, and no
4 one coerced or threatened me to enter into this agreement.

5
6 Dated: 05/24/01


R.B. JONES
Defendant

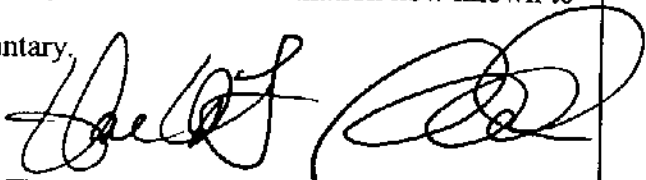
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9 ROBERT S. MUELLER, III
United States Attorney

10 Dated: 5/24/01


JOHN H. HEMANN
Assistant United States Attorney

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13 I have fully explained to my client all the rights that a criminal defendant has and all the
14 terms of this Agreement. In my opinion, my client understands all the terms of this Agreement
15 and all the rights he is giving up by pleading guilty, and, based on the information now known to
16 me, his decision to plead guilty is knowing and voluntary.

17
18 Dated: 5/24/01


HAROLD ROSENTHAL
Attorney for Defendant